

OPINION
50-80

April 1, 1950 (OPINION)

GAME AND FISH

RE: Over Population of Certain Fish

Re: Section 20-0803 (2) N.D.R.C. 1943

Yours of March 31 received and referred to my desk.

You state that the fisheries biologist in charge of the fisheries program of your department has reached the conclusion "that an over population of certain species now protected by law has produced in most of our waters a condition whereby these fish are and will remain stunted unless thinned out."

You state further that it is your intention to increase the creel limit on these species over that currently provided by statute if in the opinion of the attorney general this power is granted the governor by section 20-0803 (2) N.D.R.C. 1943.

It is our opinion that chapter 20-08 N.D.R.C. is designed to protect game birds, fish, and game animals, and gives the governor express authority to modify statutory provisions if, after investigation and your recommendation, he finds any species of game fish is in danger of depletion or extinction. Surely a condition such as you describe exists with reference to any species of fish is within the meaning of "danger of depletion" for, if it continues these species will be practically depleted as game fish.

Therefore, it is our opinion that section 20-0803 (2) gives the Governor authority, by order or proclamation, to provide "in what number (these species) may be taken and possessed."

WALLACE E. WARNER

Attorney General